



Land Contract Guarantee Pilot Program

Overview

The Farm Service Agency (FSA) provides direct and guaranteed loans to beginning farmers and ranchers who are unable to obtain financing from commercial credit sources. One new form of assistance benefiting both beginning farmers and sellers of farm real estate is FSA's Beginning Farmer and Rancher Land Contract Guarantee Pilot Program (Pilot Program).

The intent of the Pilot Program is to determine if land contracts are a viable alternative for facilitating land transfers to beginning farmers and ranchers. This program is being piloted in Oregon, Indiana, Iowa, North Dakota, Pennsylvania, and Wisconsin during Fiscal Years 2003-2007. Each year, FSA can approve up to five land contract guarantees in each of the six States, subject to the availability of funds.

General Information

Under the Pilot Program, participating sellers are provided a 10-year guarantee if their farm property is sold on contract to a qualified beginning farmer or rancher. In the event that the buyer does not pay an annual installment due on the contract, or pays only a part of an installment, FSA will provide the scheduled payment to the seller through an escrow agent. The guarantee is limited to the total monetary amount of two installments. The guarantee will also cover the amount of two years' worth of unpaid real estate taxes and insurance.

Beginning Farmer or Rancher

To be eligible for a guarantee, the seller's property must be sold on contract to a qualifying beginning farmer or rancher.

A beginning farmer or rancher is an individual or entity who (1) has not operated a farm or ranch for more than 10 years; (2) meets the eligibility requirements under FSA's regular Farm Ownership (FO) guaranteed loan program; (3) has materially and substantially participated in the operation of a farm or ranch for at least 3 years; and (4) does not own a farm greater than 30 percent of the average size farm in the County. If the buyer is an entity, and all members of the entity are related by blood or marriage, then at least one member of the entity holding a majority interest must own and operate the farm or ranch being purchased. If all members of the entity are not related by blood or marriage, then all members of the entity holding a majority interest must own and operate the farm or ranch being purchased.

Buyer Eligibility

Prospective buyers must meet certain eligibility criteria, some of which are:

- The buyer must be a beginning farmer or rancher, and must be the owner of a family sized farm or ranch after the contract is completed.
- The buyer must have materially participated in the business operations of a farm or ranch for at least 3 years.
- The buyer must have an acceptable credit history demonstrated by satisfactory debt repayment.
- The buyer must be unable to obtain sufficient credit elsewhere without a guarantee to finance the buyer's actual needs at reasonable rates and terms.

Purchase Price and Downpayment

The purchase price of the farm or ranch being purchased cannot exceed the lesser of \$500,000 or its current market value as determined by FSA. The buyer must make at least a 5 percent cash downpayment at closing. The minimum downpayment can be borrowed, as long as the farm or ranch being purchased on contract isn't collateral for that loan. If the seller requires more than a 5 percent downpayment, FSA direct or guaranteed FO loan funds may be available to finance the additional amount.

Interest Rate and Contract Terms

The interest rate charged to the buyer for the 10-year term of the guarantee cannot exceed FSA's direct FO loan interest rate in effect at the time the guarantee is issued, plus 3 percentage points. The current direct FO interest rate is available from any FSA County Office and published on the web at <http://www.fsa.usda.gov/dafl/rates.htm>. Following the expiration of the guarantee, the seller and the buyer may renegotiate the interest rate. Contract payments must be amortized for a minimum of 20 years, and must be made through a qualified escrow agent mutually acceptable to the buyer and seller. During the term of the guarantee, balloon payments are prohibited, and payments on the contract must be of equal amounts.

Guarantee Amount

Under the Pilot Program, FSA guarantees a monetary amount up to 2 years of payments, real estate taxes, and hazard insurance. Unlike other FSA guaranteed loans, FSA does not guarantee the entire unpaid contract balance in the event of loss. The guarantee runs for 10 years.

Fact Sheet

Land Contract Guarantee Pilot Program

Issuing the Guarantee

After being determined eligible for the Pilot Program, the buyer and seller, along with the escrow agent and FSA, will execute a Form FSA 2681, "Loan Payment Guarantee Agreement and Contact Modification." This Agreement outlines the terms of the guarantee and the responsibilities of each party. The guarantee becomes effective the date the Agreement is executed by the parties involved.

Default

If the buyer does not pay an annual installment or portion of an installment, the escrow agent will notify the seller. The seller must then, at a minimum, take immediate action to enforce the terms of the contract by making written demand on the buyer for payment of the defaulted amount. If the buyer does not pay the defaulted amount within 30 days of the seller's written demand, the seller may then make demand upon FSA to honor the guarantee and pay the defaulted amount. FSA will then promptly make the defaulted payment through the escrow agent. This prompt payment guarantee also applies to missed property tax installments and fire and extended coverage insurance premiums on the farm or ranch buildings.

Terminating the Guarantee

The guarantee will terminate if (1) the contract is paid in full; (2) the Agency pays two annual installments, or the total monetary amount of two installments if not repaid in full by the buyer; (3) the seller fails to seek payment of a defaulted installment from the buyer or does not otherwise enforce the terms of the contract; or (4) the seller terminates the contract. If none of these events occur, the guarantee will automatically terminate 10 years from the effective date of the guarantee.

Seller Application for Guarantee

Sellers may request a guarantee under the Pilot Program by simply signing a Form FSA 2680, "Letter of Interest." The signed letter acknowledges the sellers' understanding of how the program works, and is considered the seller's application to FSA for a guarantee. FSA then works directly with the buyer to assist them in providing the information needed to make a decision concerning the requested guarantee.

Buyer Portion of the Application

Buyers should contact their local FSA County Office who will assist them in processing the seller's application for guarantee. Generally, the buyer will need to provide the following items of information to FSA. Sometimes, additional information may be needed.

- Form FSA 1980-25, "Application for Guarantee," with the first two pages completed.
- Statement describing the farm or ranch operation, and the buyer's farm or ranch experience.
- Three years of income tax records, financial records, and production history.
- Projected farm or ranch operating budget or cash flow projection.
- Verification of any off-farm employment and debt balances.
- Terms of the proposed land sale contract.
- Credit Report fee.
- Name, address, and telephone number of the proposed escrow agent.

Where to Apply

Seller and buyers may apply for a guarantee under the Pilot Program at the local FSA County office serving the area where the farm or ranch is located. Local FSA County Offices are listed in the telephone directory under U.S. Government, Department of Agriculture, Farm Service Agency. A listing of the FSA County Offices in Oregon is also available on the Agency's State webpage at <http://www.fsa.usda.gov/or/>.

For More Information

Further information about this and other FSA programs is available from local USDA Service Centers. It is also available on the Oregon State FSA website at <http://www.fsa.usda.gov/or/>, and the National FSA website at <http://www.fsa.usda.gov>.

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